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DEPARTMENT OF ENVIRONMENTAL QUALITY

Pre-hearing Conference

EXIDE TECHNOLOGY / BATON ROUGE SMELTER

Agency Interest Number: 1396

Permit Number: LAD 008184137

The public pre-hearing in the above  
titled matter was taken at the Louisiana  
Department of Environmental Quality, Galvez  
Building, Natchez Room, Room C109, 602  
North Fifth Street, Baton Rouge, Louisiana,  
beginning at 10:05 a.m. on February 1, 2007.

BEFORE: Mark LaCour  
Certified Stenomask Reporter  
In and For the State of  
Louisiana

deq.txt  
MR. PETERSON:

The hearing is started. My name is David Peterson. I'm going to be the presiding officer over this pre-trial or pre-hearing conference that we're having with regard to a permit application for Exide Technology. It's an application for renewal of a hazardous waste permit and it's my understanding that's permit number LAD008184137 and the agency number for DEQ is 1396.

Just for the record I'll introduce myself. My name is David Peterson. I'm a practicing private attorney who's been employed by DEQ to be the hearing officer on this matter for the hearing that's going to be held next week on February 8th. And we're here for this pre-trial conference to make sure we've got everything ready for that hearing. I work for the firm of Oats & Hudson. I've been a practicing attorney for about 13 and a half years. About half of that in private practice and the

3

other half of that was working as a clerk for the Court of Appeals initially with the DA's Office in Caddo Parish.

This is going to be a 709 hearing.

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5 All I have been hired to do in this  
6 matter is to gather a record of facts,  
7 documents, testimony, and pleadings for  
8 submission to DEQ for their  
9 consideration in making the permit  
10 determination in this matter. As the  
11 presiding officer I will not make any  
12 findings of facts, conclusions of law,  
13 recommendations, or render any decisions  
14 on the merits of the permit application.  
15 We just here to gather -- gather  
16 information. Once this, the evidentiary  
17 hearing is over next week then my -- and  
18 I do a report then my authority over  
19 this ends. It will be under the  
20 authority of DEQ.

21 So does anybody have any questions  
22 about that or is there anything that  
23 they didn't understand about that? One  
24 of the things that I want to do is, this  
25 is just a matter of interest, report a

4

1 full disclosure of the record. The firm  
2 I'm with, Oats & Hudson, does do work  
3 for the Attorney General and the  
4 Department with regard to being retained  
5 by the Office of Risk Management to  
6 represent the state and the department  
7 in litigation which is unrelated to this

8                               deq.txt  
application for this matter. The case  
9                               that we're involved in there are  
10                              regulatory damage suits against the  
11                              state through DEQ which are being  
12                              defended by the Louisiana Office of Risk  
13                              Management wherein DEQ has been named a  
14                              party defendant. I have reviewed a list  
15                              of cases that our firm is representing  
16                              the department on. I've provided that  
17                              to Mr. Harvey and also Ms. Bryant to  
18                              look at just as a matter of disclosure  
19                              so that y'all have a copy of that. If  
20                              there's any potential conflicts of  
21                              interest y'all can review that. If you  
22                              see something please let me know. With  
23                              regard to that I don't think -- I've  
24                              looked at it and I don't see that  
25                              there's any conflicts there. But I will

5

1                              as a matter of record, we're going to  
2                              put that in the records as these  
3                              proceedings presiding officer Exhibit  
4                              Number One. Anybody have any objections  
5                              to that?

6                              MS. BRYANT:

7                                       No.

8                              MR. HARDY:

9                                       No.

10                             MR. PETERSON:

11                               deq.txt  
12                               Any questions, Mr. Hardy, about  
13                               that? Do you understand it?  
14                               MR. HARDY:  
15                               Yes, sir.  
16                               MR. PETERSON:  
17                               It's my understanding that there  
18                               are no interveners agreed, interested  
19                               parties, other than the applicants who  
20                               have filed in this matter. Is that  
21                               correct?  
22                               MS. BRYANT:  
23                               That's correct.  
24                               MR. PETERSON:  
25                               Is there anybody here in the  
                              audience today who represents an

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1                               intervener or someone other than the  
2                               applicant who has an interest in this  
3                               matter? Mr. Hardy, are you aware of any  
4                               interveners in this matter --  
5                               MR. HARDY:  
6                               No, sir.  
7                               MR. PETERSON:  
8                               -- through Exide? The evidentiary  
9                               hearing in this matter is scheduled for  
10                              Thursday, January -- I mean February 8th  
11                              2007 at ten a.m. in this same room, the  
12                              Natchez Room, here in the DEQ building.  
13                              Does everybody understand that?

14                               deq.txt  
MS. BRYANT:  
15                               Yes.  
16                               MR. HARDY:  
17                               Yes.  
18                               MR. PETERSON:  
19                               Okay. Is everyone satisfied that  
20                               the proper public notice has been made  
21                               in this matter? I have reviewed them.  
22                               They seem to be in order, but I wanted  
23                               to make sure nobody has any objections  
24                               or questions?  
25                               MS. BRYANT:

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1                               Not to my knowledge.  
2                               MR. PETERSON:  
3                               With regard to the hearing in this  
4                               matter, Mr. Hardy, do y'all have an idea  
5                               what y'all will be presenting at the  
6                               hearing on next Thursday in this matter?  
7                               MR. HARDY:  
8                               Nothing that I'm aware of, other  
9                               than the application itself.  
10                               MR. PETERSON:  
11                               So nothing in addition to the  
12                               application that y'all have presented?  
13                               MR. HARDY:  
14                               That's correct.  
15                               MR. PETERSON:  
16                               Do you plan on either you

17                   deq.txt  
18           testi fyi ng or anybody goi ng to testi fy  
19           wi th regard to those appli cations?  
20           MS. BRYANT:  
21                   I 'd l i ke to leave i t open.   I 'll  
22           be meeting wi th permits on Monday and  
23           I 'll make that determination then.  
24           MR. PETERSON:  
25                   That wi ll be somebody wi th DEQ?  
                  MS. BRYANT:

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1                   That's correct.  
2           MR. PETERSON:  
3                   Mr. Hardy, are you aware of  
4           anybody who's going to come testi fy at  
5           that hearing?  
6           MR. HARDY:  
7                   Other than myself, the plant  
8           manager.  
9           MR. PETERSON:  
10                  The plant manager, that's Mr.  
11           Harris, is that right?  
12           MR. HARDY:  
13                  That's correct.  
14           MR. PETERSON:  
15                  Okay. Ms. Bryant, i t's my  
16           understanding that you're going to be  
17           wi th some folks to get wi tnesses.  
18           MS. BRYANT:  
19                  That's correct.

20                               deq.txt  
MR. PETERSON:  
21                               What I'd like y'all to do if --  
22                               Ms. Bryant, if you can get with Mr.  
23                               Hardy, I know you're meeting with some  
24                               of your folks to gather up some file  
25                               stuff, if y'all could get to me by

9

1                               Tuesday, end of the business day on  
2                               Tuesday, I believe that's February 6th,  
3                               if y'all could get to me -- if both of  
4                               y'all could get together and get a list  
5                               of witnesses that y'all plan to present  
6                               and additionally a list of exhibits that  
7                               y'all plan to present. If possible if  
8                               y'all could get me sort of like a bench  
9                               book or copies of the exhibits so I'd  
10                              have those for myself to review prior to  
11                              the hearing on that date and y'all can  
12                              just deliver those to my office. Mr.  
13                              Hardy I'll give you one of my cards so  
14                              you'll know my address. But I'll just  
15                              ask Ms. Bryant to call you and contact  
16                              you so y'all can do that. Ms. Bryant,  
17                              do you have any disputes or anything  
18                              that we're going to have with the  
19                              evidence that you know of?  
20                              MS. BRYANT:  
21                              Not that I know of.  
22                              MR. PETERSON:



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23 Just let me know that if there is  
24 some issue or something with you're  
25 discussions with Mr. Hardy, just let me

10

1 know. Are there any subpoenas that need  
2 to be issued?

3 MS. BRYANT:

4 Not for DEQ.

5 MR. PETERSON:

6 Mr. Hardy, I assume you'll have  
7 your people here, is that correct?

8 MR. HARDY:

9 Yes.

10 MR. PETERSON:

11 Okay. Is there anything else that  
12 we need to discuss today with regard to  
13 the hearing that's going to be next  
14 Thursday? Does anybody have any  
15 questions or anything of me or that  
16 matter how we're going to handle things?

17 MS. BRYANT:

18 No, none of DEQ.

19 MR. PETERSON:

20 Mr. Hardy, do you have any  
21 questions?

22 MR. HARDY:

23 No, sir.

24 MR. PETERSON:

25 Okay. I think with regards to

1 this conference I think we've covered  
2 everything we need to cover. We'll be  
3 prepared on Thursday, next Thursday to  
4 come in here and have the hearing and  
5 make all the presentations for both  
6 sides, and I think we're done for today.

7 We had a sign-in sheet of everyone  
8 that was here, at least from the DEQ  
9 representative and from Exide. I'm just  
10 -- wherever that sign in sheet is when  
11 everybody is done with it I'm just going  
12 to put that into the record as presiding  
13 officer Exhibit Number Two. And we're  
14 done.

15 Just one other thing. I forgot to  
16 do this at the beginning. I just want  
17 to -- I have Ms. Bryant and Mr. Hardy  
18 make a formal appearance on the record.  
19 Just state your full name and who you  
20 represent.

21 MS. BRYANT:

22 Carolyn Bryant, for the  
23 Louisiana Department of Environmental  
24 Quality.

25 MR. HARDY:

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Edward Hardy, Exxon Technology.

MR. PETERSON:

Thank you.

WHEREUPON, AT 10:14 A.M. THE HEARING ENDED

\* \* \* \* \*

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R E P O R T E R ' S P A G E

I, Mark LaCour, Certified Court

Reporter, in and for the State of Louisiana,  
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4 the officer, as defined in Rule 28 of the  
5 Federal Rules of Civil Procedure and/or  
6 Article 1434(b) of the Louisiana Code of Civil  
7 Procedure, before whom this sworn testimony  
8 was taken, do hereby state on the record:

9 That due to the interaction in the  
10 spontaneous discourse of this proceeding,  
11 dashes (--) have been used to indicate pauses,  
12 changes in thought, and/or talk overs; that  
13 same is the proper method for a Court  
14 Reporter's transcription of proceeding, and  
15 that the dashes (--) do not indicate that  
16 words or phrases have been left out of this  
17 transcript.

18 Also, any words and/or names which could  
19 not be verified through reference material  
20 have been denoted with the phrase  
21 "(inaudible)."

22  
23  
24 \_\_\_\_\_  
Mark LaCour, C. C. R.  
25 # 89054

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1 C E R T I F I C A T I O N

2 I, the undersigned reporter, do hereby  
3 certify that the above and foregoing is a true  
4 and correct transcription of the stenomask  
5 tape of the proceedings had herein, taken down  
6 by me and transcribed under my supervision, to

deq.txt

7 the best of my ability and understanding, at  
8 the time and place hereinbefore noted, in the  
9 above-entitled cause.

10 I further certify that the witness was  
11 duly sworn by me in my capacity as a Certified  
12 Court Reporter pursuant to the provisions of  
13 R.S. 37:2551 et seq. in and for the state of  
14 Louisiana; that I am not of counsel nor  
15 related to any of the counsel of any of the  
16 parties, nor in the employ of any of parties,  
17 and that I have no interest in the outcome of  
18 this action.

19 I further certify that my license is in  
20 good standing as a court reporter in and for  
21 the state of Louisiana.

22  
23 \_\_\_\_\_  
24 Mark LaCour, C. C. R.

25 # 89054